

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 495
and Municipal Officers

Terms of State Senators, State Representatives, and Elected County

SPONSOR(S): Troutman

TIED BILLS:

IDEN./SIM. BILLS: SJR 598

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Policy Council		Varn	Cicccone
2)	Governmental Affairs Policy Committee			
3)	Rules & Calendar Council			
4)	Economic Development & Community Affairs Policy Council			
5)				

SUMMARY ANALYSIS

House Joint Resolution 495 proposes to amend the Florida Constitution to increase the length of a single term in office for a State Representative from two years to four years and a State Senator from four years to six years.

The resolution also proposes to extend the number of consecutive years in office for State Representatives and State Senators from eight years to twelve years and to impose a twelve-year consecutive term limit for county and municipal elected officials.

The resolution proposes to delete the eight-year term limitation for United States Representatives and United States Senators from Florida, which was declared unconstitutional by the United States Supreme Court in 1995.

The resolution also proposes to add a new schedule to the Constitution to implement these amendments.

This joint resolution to change terms and term limits for elected officials must be approved by a 3/5 vote of the membership of each house of the Legislature. If enacted by such a vote, the proposal will be presented to the electors of Florida during the state's next general election on November 2, 2010. Final approval requires a favorable vote from 60 percent or more of the electors of the state.

The joint resolution appears to have a fiscal impact on state government in that the Department of State, Division of Elections, estimates a non-recurring cost of approximately \$65,897.28 for FY 2010-11. This cost is a result of placing the joint resolution on the ballot and publishing two notices in local newspapers, which is required by Article XI, Section 5, of the Florida Constitution.

The resolution would take effect upon approval of the voters on November 2, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

BACKGROUND:

In 2005, HJR 1177 was passed by the House and Senate by the required 3/5 vote, increasing the consecutive term limits of state senators and state representatives from eight years to twelve years. The proposal was scheduled to appear on the November 2006 ballot. However, during the 2006 Legislative Session, SJR 2788 was passed by the House and Senate rescinding HJR 1177, therefore the issue was never placed before the Florida electorate in 2006.

Article III Section 15 of the Florida Constitution currently provides for terms and qualifications of legislators. The Section provides that senators are elected to four year terms, with senators from odd numbered districts in the years that are multiples of four, and the even numbered districts in the years which are not multiples of four. All House members are elected every two years.

Article VI Section 4 of the Florida Constitution currently provides that a State Representative or Senator, Lieutenant Governor, Florida Cabinet member, United States Representative or United States Senator from Florida may not have his or her name placed on the ballot if the person has served eight consecutive years in that office. In 1992, Florida voters approved term limits under the "eight is enough" proposal (citizen initiative) by a margin of 77 percent to 23 percent.

Article VI, Section 4(b), currently reads:

No person may appear on the ballot for re-election to any of the following offices:

- (1) Florida Representative,
- (2) Florida Senator,
- (3) Florida Lieutenant governor,
- (4) Any office of the Florida Cabinet,
- (5) U.S. Representative from Florida, or
- (6) U.S. Senator from Florida

If, by the end of the current term of office, the person will have served (or, but for resignation, would have served) in that office for eight consecutive years.

In 1995, the United States Supreme Court held that state limits on the terms of federal officials

violated the United States Constitution.¹ The provisions relating to state officials were challenged; however, the Florida Supreme Court upheld those provisions of Article VI, Section 4(b).²

Presently, 15 states have term limits for legislators. In all, 21 states have passed legislative term limits at one time or another; however term limits have been repealed or declared unconstitutional in six of those states. In the late 1990s, Massachusetts and Washington's State Supreme Courts held that states' legislative term limits were unconstitutional. In 2002, Oregon's Supreme Court held that legislative term limits unconstitutional, and in 2002 and 2003, respectively, the Idaho and Utah State Legislatures repealed legislative term limits. In 2004, the Wyoming State Supreme Court held that legislative term limits were unconstitutional.³

Currently most county and municipal elected officials in Florida are not subject to consecutive term limits. The Florida League of Cities estimates that between one-third and one-fourth of Florida cities have some form of term limits.⁴ According to the Florida Association of Counties, Brevard, Broward, Clay, Duval, Hillsborough, Miami-Dade, Orange, Palm Beach, Polk, Sarasota, and Volusia counties have term limits in their charters. However, in 2002, when challenged, term limits for Duval County elected officials were found unconstitutional.⁵ No county in the state has term limits for School Board members as per the Florida School Boards Association.⁶

Article XI, Section 5(e) requires that any amendment to the Florida Constitution must receive a favorable vote by at least sixty-percent of the electors voting on the measure.

PROPOSED CHANGES:

House Joint Resolution 495 proposes to amend Article III, Section 15 of the Florida Constitution to increase the current terms of State Representatives from two years to four years and State Senators from four years to six years.

House Joint Resolution 495 proposes to amend Article VI, Section 4 to increase the consecutive term limits of state legislators from eight years to twelve years, and to impose consecutive term limits of twelve years for county and municipal elected officials.

The resolution removes language from this section which was passed during the citizen's initiative in 1992, requiring term limits for members of Congress, which the United States Supreme Court determined violates the United States Constitution.

The resolution also adds a new schedule to Article XII to provide for the implementation of the amendments to Articles III and VI.

If passed by the required 3/5 membership of the House and Senate,⁷ the proposed amendment will be presented to the electors of Florida at the November 2010 general election, and if approved, will apply to those officers elected in November 2010 and after.

If approved by the electorate, senators elected during the 2010 general election would be elected to terms of at least four years. The terms of senators having two years remaining in their terms may be extended by two years. The HJR requires the Legislature to divide the senate districts as evenly as

¹ *U.S. Term Limits, Inc. v. Thornton*, 115 S.Ct. 1842 (1995).

² *Ray v. Mortham*, 742 So.2d 1276 (Sept. 2, 1999) (The Court found that the portions relating to state officials could be severed from the portions that were stricken as invalid in *Thornton* and held that the term limits amendment as applied to state officers was constitutional.)

³ *Frequently Asked Questions about Term Limits*, National Conference of State Legislatures, August 27, 2008.

⁴ Email from Lynn Tipton, Director of Membership Development, Florida League of Cities, January 25, 2010, on file with House Policy Council.

⁵ *Cook v. City of Jacksonville*, 823, So2nd 86 (Fla. 2002)

⁶ Telephone conversation with Dr. Wayne Blanton, Executive Director, Florida School Boards Association, January 25, 2010.

⁷ The Florida house, *Guidelines for Bill Drafting*, (2009) page 12.

possible into three classes to maintain staggered terms. House members elected in odd-numbered districts in the 2010 general election would be elected to two-year terms. House members elected in even-numbered districts in 2010 would be elected to four-year terms. If the HJR passes in November, at the organizational session of 2010, the resolution calls for the Legislature to implement the resolution.

The proposed constitutional amendment will appear on the November 2010 ballot as follows:

CONSTITUTIONAL AMENDMENTS
ARTICLE III, SECTION 15
ARTICLE VI, SECTION 4
ARTICLE XII

TERMS OF STATE SENATORS, STATE REPRESENTATIVE AND ELECTED COUNTY AND MUNICIPAL OFFICERS.-The State Constitution provides that State Senators are elected to terms of 4 years and State Representatives are elected to terms of 2 years. The State Constitution also generally limits State Senators and State Representative to serving 8 consecutive years in office. However, the State Constitution does not limit the number of consecutive years in office that may be served by a county or municipal officer.

This amendment lengthens the terms of State Senators to 6 years and the terms of State Representatives to 4 years. The amendment also generally limits State Senators, State Representatives, and elected county and municipal officers to 12 consecutive years in office. However, the amendment does not change the length of the term of any elected county of municipal office.

B. SECTION DIRECTORY:

Not applicable

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
Not applicable
2. Expenditures:

Article XI, Section. 5, of the Florida Constitution, require each proposed amendment to the Constitution be published in a newspaper of general circulation in each county two times prior to the general election. The Division of Elections estimates the cost of compliance would be approximately \$65,897.28

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None
2. Expenditures:
None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: Not applicable. This resolution does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other: When challenged in 2002, the term limits provision in the Charter of Duval County was declared unconstitutional.

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

If the resolution is adopted, changing the staggered terms of Senators from four to six year terms requires the Legislature to divide the senate districts as evenly as possible into three classes. The logistics as to how this is to be done would be decided during the 2010 organizational session. In the past, the senate districts have been divided into two classes--even and odd. It should be noted that reapportionment will take effect in 2012, and it is uncertain as to how this would impact the resolution after it is implemented.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES